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January 24, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

**Re: In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service
MM Docket No. 87-268**

Dear Mr. Caton:

Enclosed, on behalf of Nielsen Media Research, are an original and five copies of its reply comments in response to the Federal Communications Commission's *Sixth Further Notice of Proposed Rule Making* in the above-referenced proceeding.

Should there be any questions regarding this transmittal, kindly direct them to the undersigned.

Sincerely,



Jocelyn R. Roy

Enclosures

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Washington, D.C. 20554

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OFFICE OF SECRETARY

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

To: The Commission

REPLY COMMENTS OF NIELSEN MEDIA RESEARCH

Nielsen Media Research, a division of Cognizant Corporation ("Nielsen Media"), through its attorneys, and pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 1.415 (1996), hereby submits these Reply Comments in response to the *Sixth Further Notice of Proposed Rule Making* in the above-captioned proceeding.^{1/}

I. BACKGROUND: THE NIELSEN MEDIA RESEARCH "RATINGS"

1. Nielsen Media provides a variety of "rating" or audience measurement services to members of the advertising, broadcast and cable industries. The most commonly known of these services is Nielsen Media's "national" broadcast ratings, whereby Nielsen Media estimates the size and demographic composition of audiences viewing nationally-televised, analog, network

^{1/} *In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, *Sixth Further Notice of Proposed Rule Making* (rel. August 14, 1996) ("*Sixth Further Notice*").

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and syndicated and cable network programs. In addition, Nielsen Media provides advertising tracking services, whereby Nielsen Media tracks households receiving the broadcast or cablecast of specified advertisements within programs.

2. Historically, Nielsen Media's national ratings of analog programming are compiled from three principal sources of information, each of which must be extremely reliable. These sources are: (i) "Tuning" Information, revealing the radio frequency to which monitored television receiver in Nielsen Media Metered Households ("NMHs") are tuned at the specified time, which Nielsen Media obtains from "meters" connected to the television receivers located in those NMHs; (ii) "Program Line-Up" Information, revealing the network or syndicated program being transmitted in an analog mode by the broadcast station transmitting the channels being viewed in the NMH at the specified time, which Nielsen Media obtains from its Automated Measurement of Line-up ("AMOL") System; and (iii) Demographic Information, revealing the age and gender of the persons watching the television receiver at the specified time, which Nielsen Media obtains from "People Meters" located in the NMHs.

3. Nielsen Media recently developed an "enhanced" AMOL System, which also is capable of embedding separate identifying information for each link in a program's distribution chain -- information which is increasingly being demanded by the advertising and programming industries to track the distribution and acceptance of rated programs. Once embedded, Nielsen Media's SID Codes are delivered with the program throughout its distribution, eventually to local broadcast stations (whether network affiliates or independents) and cable systems (where these systems carry encoded programming) and, eventually, into viewers' homes. Nielsen Media's SID Codes cannot be seen by viewers because the Codes are transmitted within the

“overscan” area of the television picture. Nevertheless, while they are invisible to viewers, the Codes are able to be decoded and “read” by Nielsen Media at central sites in each television market throughout the country for the purpose of verifying the broadcast of a program and to prepare Nielsen Media’s “ratings,” or a quantification of the number and demographic characteristics of viewers watching a rated program at a specific time.

4. Nielsen Media's ratings are important foundations of the advertiser-supported broadcast and cable program industries, both of which utilize ratings to judge the acceptance of broadcast and cable program offerings among viewers and to establish audiences “delivered” to the advertiser through their viewing of the program and advertisements. Advertisers use Nielsen Media’s services to allocate their advertising expenditures; producers of broadcast and cable programming (virtually every major cable program provider is a subscriber to Nielsen Media's ratings) use ratings to evaluate the acceptance of programs when making creative programming decisions; even the Commission itself relies upon Nielsen Media’s ratings in connection with, *inter alia*, the enforcement of the FCC’s Rules and Regulations.^{2/} The television advertising industry as a whole represents almost \$30 Billion in advertising placements and programming decisions annually, virtually all of which depend upon the quality, accuracy and reliability of Nielsen Media’s Ratings.

5. Both Congress and the FCC have long recognized that ratings, and the integrity of those ratings, are important underpinnings of the advertising, broadcast and cable industries.

^{2/} See Letter from Scott Roberts, Senior Economist, Mass Media Bureau, to Lawrence Laskey, Assistant General Counsel of Nielsen Media, (June 10, 1994) (requesting Nielsen Media’s ratings information for use in connection with Prime Time Access Rule; territorial exclusivity requirements and signal carriage requirements).

Congress has recognized that maintaining and promoting our system of advertiser-supported broadcasting is in the national interest. In the Cable Act, for example, Congress determined that to allow a cable system to delete or reposition a broadcast station's programming during periods that the station is subject to ratings analysis, could greatly undermine the integrity of the "ratings" of that station, and it therefore prohibited such changes during those periods.^{3/}

6. The FCC itself has long recognized that ratings services provided by organizations such as Nielsen Media, are in the public interest because of their importance to the advertiser-supported broadcast industry.^{4/} The Commission has found that such services are in the public interest because they "convey indirect benefits [to the public] by making the operation of broadcast stations more convenient and economical, [and by] making possible a more adequate financial base for the provision of basic broadcasting service."^{5/}

II. DISCUSSION

7. In its *Sixth Further Notice*, the Commission requested proposals concerning an appropriate scheme to label the new DTV frequencies for consumer identification and similar purposes.^{6/} The Commission suggested that the frequency channel designators be brief, and

^{3/} 47 U.S.C. § 534(b)(9); and see House Committee on Energy and Commerce, H.R. Rep. No. 623, 102d Cong., 2nd Sess. (1992) at 95 ("House Report"); and Senate Committee on Commerce, Science, and Transportation, S. Rep. No. 92, 102nd Cong., 1st Sess. (1991) at 86 ("Senate Report").

^{4/} See, e.g., *Permitting Transmission of Program-Related Signals in the Vertical Blanking Interval of the Standard Television Signal*, 43 Fed. Reg. 49331, 49333 (Oct. 23, 1978); *TV Visual Transmissions for Program Identification (Report and Order)*, 22 F.C.C.2d 536, 545 (1970) (determining that ratings are "important . . . to many entities involved in producing the programs which [a] station broadcasts, and without which [a station's] viable operation, however convenient and economical, would be impossible"); and see *TV Visual Transmissions for Program Identification (Public Notice)*, 22 F.C.C. 2d 779, 780 (1970).

^{5/} Id.

^{6/} *Sixth Further Notice* at ¶¶ 78, 79.

stated that it may be desirable to adopt channel designators that allow broadcasters to label multiplexed programming.^{7/} Specifically, the Commission requested suggestions for a plan that would minimize the length and complexity of the channel designators.^{8/}

8. In response to the Commission's solicitation, the Association for Maximum Service Television ("AMST") commented that "the most fundamental element to any labeling scheme should be maintaining channel identity."^{9/} AMST suggested that the Commission recommend the creation of a committee composed of members of the broadcasting industry, equipment manufacturers and the cable industry to explore the issues surrounding the adoption of a labeling plan. Similarly, the Association of America's Public Television Stations ("APTS") urged the adoption of an inter-industry committee to study the frequency labeling issue.^{10/}

9. Nielsen Media would support the creation of a cross-industry committee to study and propose a channel designation plan for DTV, and would desire to participate in that process given its vested interest in the issues to be addressed by such a Committee. In any event, Nielsen Media suggests that whatever final plan is adopted, the following issues should be taken into consideration.

a. DTV Designators Must Be Unique

10. To provide accurate ratings information, a ratings provider must be assured that TV channel designators are, and will remain, unique; *i.e.*, that they are not duplicated in any part

^{7/} Sixth Further Notice at ¶ 79.

^{8/} Id.

^{9/} Comments of the Association for Maximum Service Television at 62.

^{10/} Comments of the Association of America's Public Television Stations at 42.

of the country. Otherwise, ratings providers could not reliably identify the transmission of programming. At present, the unique assignment of station call letters ensures that stations are uniquely identified throughout the country, which allows Nielsen Media and other ratings providers to accurately identify the source of a particular transmission by their associated call sign. Once DTV channels are assigned, it is imperative that a channel designator be unique throughout the country, assigned only once and not reassigned to more than one transmission source. An example of a workable solution would be to assign only alpha characters for call signs and numeric designations for each channel associated with a call sign (i.e., “WZZZ-1” for station WZZZ, channel 1). An example of a non-unique (and therefore unacceptable) assignment would be to allow alphanumeric channel designations. For example, “WZZZ” could be station “WZZ,” channel Z, or the single-channel station “WZZZ.” Nielsen Media urges the Commission to examine all possibilities when considering an identification proposal.

11. For satellite stations, the main call sign should be allowed to be used if 100% of the content from the main transmitter is broadcast real-time. A satellite transmitter, for example, that replaces some local commercials, should not be allowed to use the main transmitter’s call letters.

b. DTV Designators Must Be Used Consistently

12. Once assigned, as is the case with station call letters currently, broadcasters should be required to use their DTV channel designators consistently and be required to make formal application to the Commission prior to requesting a change in the channel designator. If broadcasters are allowed to change channel designations at will, ratings would become inherently

unreliable, and it might even be possible for broadcasters to manipulate ratings through the manipulation of channel designations.

c. DTV Designators Should Be No More Than Eight Characters

13. The Commission suggested, in the *Sixth Further Notice*, that channel designators be as brief as possible to alleviate confusion to viewers.^{11/} Nielsen Media agrees with the Commission's belief that it would be easier for stations, viewers and those who provide program listings to make the DTV channel designations as brief as possible. Moreover, studies going back to the original formation of the Bell System have shown that humans most readily recall 7 or 8 digits reliably. To this end, Nielsen Media suggests that the channel designators be no more than eight characters in length.

d. Multiple Transmissions Of Identical Programming By Different Sources Should Be Separately Identifiable

14. As indicated above, to provide ratings, ratings companies must be able to derive information not only about who is viewing the programming, but about the source of the program's transmission. The unique nature of station call letters presently allows that identification. However, in a digital environment, individual stations might be able to transmit many different programs or "tiers" of programming, some of which may be transmitted by other stations also serving, or received in, a specific market. In order to allow ratings companies to remain able to identify the transmission sources of redundant programming without the benefits of unique call letters, Nielsen Media suggests that frequency identifiers be required to incorporate information about the source or location of a transmission. For example, as the

^{11/} *Sixth Further Notice* at ¶ 79.

Commission has already noted,^{12/} an alphabetic designator for DTV frequencies also would allow stations to use numeric designators for multi-tiered programming.

e. ***Program Identifiers Should Conform to EIA Proposal***

15. The ATSC Technology Group on Distribution (“T3”) of the Electronic Industries Association (“EIA”) is reviewing a proposed Program/Episode/Version Identification Standard that incorporates many of the characteristics described herein and is required to provide ratings for DTV programs. The T3 Standard calls for a “Provider Index Number” to be assigned by the Society of Motion Picture and Television Engineers (“SMPTE”) to each major programming provider, and a “Program Event Identification Number” to be assigned by the respective programmer (or SMPTE for low-volume program producers) to each program to be transmitted digitally. The numbers associated to each respective program would be transmitted with their associated program each time the program is transmitted, and “read” at their point of reception in monitored homes.

16. As explained in its July 15, 1996 Comments, filed in response to the FCC’s *Fifth Notice of Proposed Rule Making* issued in this proceeding, Nielsen Media proposed and supported the incorporation of T3’s Program/Episode/Version Identification Standard into the ATSC DTV Standard, so long as that data is obtainable.^{13/} The assignment of a unique

^{12/} *Sixth Further Notice* at ¶ 78.

^{13/} In its earlier-filed *Comments* in response to the *Fifth Notice of Proposed Rule Making* in this proceeding, Nielsen Media noted that capturing digitized program identification information over-the-air or at the transmitter site, as is done in an analog environment, would not provide relevant information to ratings companies because that information could relate to *more than one* program being transmitted by a given station at a specific time -- not the specific program actually being viewed in the metered household. To address this issue, Nielsen Media suggested that the program identification information be captured in the home, and suggested that television receiver manufacturers be strongly encouraged by the Commission to

identifying number to each program under T3's proposal will permit metering activities in a digital television environment, thereby continuing the ability to provide for ratings, notwithstanding the conversion to digital transmission technologies.

III. CONCLUSION

In order to preserve the integrity of the ratings process, ensure usability in future consumer products and to alleviate possible public confusion regarding the transmission of digital broadcast services, Nielsen Media urges the Commission to adopt a frequency labeling plan which

- is unique;
- is used consistently;
- is brief; and
- allows for the proper identification of the source of duplicate programming.

Moreover, Nielsen Media supports program identification conforming with the EIA T3 proposal, modified to make sure that ratings data is obtainable as suggested in Nielsen Media's earlier-filed *Comments* in this proceeding.

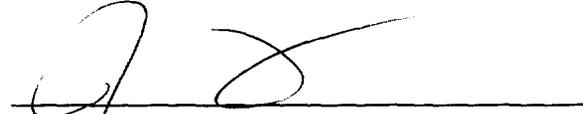
design the most efficient manner of granting access to the digital identification information transmitted with displayed programming, such as through incorporation of data ports in DTV receivers.

WHEREFORE, Nielsen Media urges the Commission to adopt regulations in accordance with the opinions and arguments expressed in these Reply Comments.

Respectfully submitted,

NIELSEN MEDIA RESEARCH

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Its Attorneys

January 24, 1996

CERTIFICATE OF SERVICE

I, Bernadette T. Clark, a secretary in the law firm of Gardner, Carton & Douglas, hereby certify that a true and correct copy of the foregoing (1) Request to Accept Late-Filed Comments and (2) Comments of A.C. Nielsen Company were sent via hand delivery, this 15th day of July, 1996, to each of the following:

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